

EVALUATION PROCESS AND APPLICATION FOR PROJECTS OR WATER UTILIZATION ALTERNATIVES PROPOSALS TO BE FUNDED UNDER THE ARIZONA WATER SETTLEMENTS ACT

SUMMARY OF PROCESS

Pursuant to the Arizona Water Settlements Act of 2004 (AWSA), P.L. 108-251, the New Mexico Interstate Stream Commission (ISC) will accept applications for the New Mexico Unit of the Central Arizona Project (NM Unit) or water utilization alternatives that meet water supply demands to be funded with funds available under the AWSA. Application submission and evaluation will be in a two-tiered format. Applications for proposals satisfying both tiers may be considered by the ISC for further review and possible funding as the State develops a plan for developing AWSA water and available funding.

Tier-1: Tier-1 applications must provide, as best and with as much detail as the applicant is able, the information required in Section 1. Applicants seeking an optional preliminary review of an application must submit the Tier-1 application by May 1, 2011. Final Tier-1 applications must be submitted no later than June 30, 2011. **Applications to develop AWSA water or funding will not be accepted after June 30, 2011.**

Tier-2: Only those applications that satisfy Tier-1 requirements will be eligible for Tier-2 consideration. Applicants seeking an optional preliminary review of a Tier 2 application must submit the by October 14, 2011. Final Tier 2 applications must be submitted by December 15, 2011. Only those applications that qualify for Tier-2 consideration will be eligible for selection by the ISC for initial funding and/or further study and assessment.

Individuals and entities eligible to submit applications include: (i) local governments or municipalities; (ii) soil and water conservation districts, irrigation districts or commissions, acequias, or other political subdivision of the State of New Mexico; (iii) institutions of higher education or a consortium of such institutions; (iv) non-profit organizations or associations; (v) private individual/s; (vi) corporations; and (vii) federal agencies.

Section 1. Tier-1 Applications

Tier-1 applicants must use the Tier-1 application form. The application and schedule is attached or is available on the ISC's website at http://www.ose.state.nm.us/isc_colorado_gila_sanfran_committee.html. The preferred method to submit Tier-1 applications is electronically via email to craig.roepke@state.nm.us. Alternatively, ten (10) hardcopies may be delivered via postal mail or courier service with a postmark or courier service's time and date stamp dated on or before 5:00 pm MST on June 30, 2011. Hardcopy applications may be requested from the New Mexico Interstate Stream Commission, Attn: Craig Roepke, P.O. Box 25102, Santa Fe, NM 87504-5102. Completed hardcopy applications should be sent to the New Mexico Interstate Stream Commission, Attn: Craig Roepke, P.O. Box 25102, Santa Fe, NM 87504-5102, or delivered to the ISC at 407 Galisteo Street, Bataan Memorial Bldg. in Santa Fe.

Comprehensive responses to each criteria listed should be supported by the best available science and scientific data, studies, models, and, where applicable, cite state, regional, or other water plans. Where such data and information is not available, applications should include best estimates and describe how such information would be obtained. Applications that do not include the requested information will not satisfy Tier-1 standards and, therefore, will not be eligible for Tier-2 consideration.

Tier-1 Evaluation Panel. The Tier-1 Evaluation Panel will consist of technical staff representing New Mexico Environment Department,; New Mexico Energy, Minerals and Natural Resources Department; New Mexico Department of Game and Fish; Office of State Engineer, and ISC. ISC shall also provide legal counsel. The Panel will evaluate each application according to the Tier-1 criteria below.

Tier-1 Evaluation Method. The Tier-1 Evaluation Panel will evaluate Tier-1 applications against the Tier-1 criteria and will score the application on a pass/fail basis. An application failing any of the criteria shall be judged to have failed the Tier-1 evaluation. The Panel will complete initial evaluations by July 31, 2011 and submit the Panel's final evaluations to the ISC by August 29, 2011.

Optional Preliminary Review. Applicants may request an optional preliminary review by submitting the application with a request for a preliminary review by May 1, 2011. The Tier-1 Evaluation Panel will conduct the preliminary review and responses will be mailed to applicants no later than June 1, 2011. The preliminary review will only examine the application for completeness; i.e., look for missing required responses or information. At the sole discretion of the Panel, the Panel may indicate where information or data should be clarified or strengthened. The Panel's response to a preliminary review does not guarantee or certify that an application is complete or that it satisfies Tier-1 criteria. Request for a preliminary review does not constitute application submission by the June 30, 2011 deadline; an applicant must submit a final Tier-1 application by the June 30, 2011 deadline for full consideration by the Tier-1 Evaluation Panel.

TIER-1 CRITERIA

1. State whether the proposal is for the "New Mexico Unit," a "water utilization alternative," or both. A "New Mexico Unit" is a project or activity that will develop additional water from the Gila basin above that allocated to New Mexico prior to the 2004 AWSA and require the Secretary of the Interior to exchange CAP water for any additional depletions in New Mexico. A "water utilization alternative" is a project or activity that does not develop additional water from the Gila basin above that allocated to New Mexico prior to the 2004 AWSA or does not require exchange of CAP water for additional depletions by New Mexico in the Gila basin. (see Exhibit A. **Interstate Stream Commission Gila Policy Statement, September 2004, and 2004 Arizona Water Settlements Act, Section 212 (i)**)
2. Describe how the proposal will meet a "water supply demand" in the Southwest New Mexico Water Planning Region, comprised of Catron, Grant, Hidalgo and Luna Counties. The 2004 AWSA requires a "New Mexico Unit," a "water utilization alternative," or both to meet a

water supply demand in the Southwest New Mexico Water Planning Region. The proposal must identify the demand that will be met and how the proposal will meet the demand identified. (see Exhibit A. **Interstate Stream Commission Gila Policy Statement, September 2004, and 2004 Arizona Water Settlements Act, Section 212 (i)**)

3. Describe how the proposal considers the Gila environment and describe how any negative impacts might be mitigated. The ISC Gila Policy requires full consideration of the Gila environment. If the proposal impacts the Gila environment, the proposal must describe the impact, whether negative or positive, or both. The proposal must indicate how negative impacts are to be mitigated. (see Exhibit A. **Interstate Stream Commission Gila Policy Statement, September 2004, and 2004 Arizona Water Settlements Act, Section 212 (i)**)

4. Describe how the proposal considers the historic uses of and future demands for water in the Southwest New Mexico Water Planning Region and the traditions, cultures and customs affecting those uses. The proposal must demonstrate how it conforms to the ISC Gila Policy to fully consider historic uses of and future demands for water in the Basin and the traditions, cultures and customs affecting those uses. Describe any impacts on historic uses of and future demands for water in the Basin and the traditions, cultures and customs affecting those uses, whether negative or positive, or both. The proposal must indicate how the negative impacts are to be mitigated. (see Exhibit A. **Interstate Stream Commission Gila Policy Statement, September 2004, and 2004 Arizona Water Settlements Act, Section 212 (i)**)

TIER-1 SCHEDULE (New July 14, 2011 deadline):

<u>Date</u>	<u>Action</u>
March 23, 2011	: Commission Approval of process and criteria
May 1, 2011	: Submission of preliminary Tier-1 proposals for review
June 1, 2011	: Review and return of preliminary Tier-1 proposals
July 14, 2011	: Final Tier-1 submission deadline
August 16, 2011	: Evaluation panel review and ranking of Tier-1 proposals complete
August 23, 2011	: Deadline for request for reconsideration of evaluation panel rankings
August 30, 2011	: Response to request for reconsideration
September 1, 2011	: Evaluation panel submission to Commission of ranking of Tier-1 proposals
September 28, 2011	: Commission action on Tier-1 proposals

(TIER-2 TIER-2 PROCESS, CRITERIA, APPLICATION, AND SCHEDULE ARE TO BE FINALIZED AND NOT CURRENTLY AVAILABLE.)

**TIER-1 APPLICATION TO THE NEW MEXICO INTERSTATE STREAM COMMISSION
FOR NEW MEXICO UNIT OR WATER UTILIZATION ALTERNATIVE
UNDER THE ARIZONA WATER SETTLEMENTS ACT**

APPLICANT INFORMATION (PRINT OR

DATE:

<p>1. Legal Name: 2. Hugh B. McKeen</p>	<p>2. Organization: Catron County Commission</p>										
<p>3. Address (street, city, county, state, and zip code): Catron County Commission P. O, Box 507 Reserve, N. Mex. 87830</p>	<p>4. Name, email, and phone number of contract person: Hugh B. McKeen hmckeenjr@gmail.com (575) 539-2733</p>										
<p>5. TYPE OF APPLICATION (check one): <input type="checkbox"/> Final <input checked="" type="checkbox"/> Preliminary for review <input type="checkbox"/> Revised</p>	<p>6. TYPE OF APPLICANT (CHECK BOX): <input checked="" type="checkbox"/> Local governments or municipalities</p>										
<p>7. BRIEF PROJECT DESCRIPTION: Making non adjudicated historic water rights whole.</p>	<p><input checked="" type="checkbox"/> Soil and water conservation districts, irrigation districts or commissions, acequias, or other political subdivision of the State of New Mexico</p> <p><input type="checkbox"/> institutions of higher education or a consortium of such institutions</p> <p><input type="checkbox"/> non-profit organizations or associations</p>										
<p>8. AREAS AFFECTED (describe by county, municipality, township, etc. as applicable): All areas of the Gila National Forest, more specifically located in Catron and Grant Counties.</p>	<p><input checked="" type="checkbox"/> Private individual/s</p> <p><input type="checkbox"/> federal agency (ies)</p> <p><input type="checkbox"/> Other (specify)</p>										
<p>9. TOTAL FUNDING REQUESTED (in \$1,000):</p> <table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 20%;">2012:</td> <td style="width: 20%;">2013:</td> <td style="width: 20%;">2014:</td> <td style="width: 20%;">2015:</td> <td style="width: 20%;">2016:</td> </tr> <tr> <td>2017:</td> <td>2018:</td> <td>2019:</td> <td>2020:</td> <td>2021:</td> </tr> </table>		2012:	2013:	2014:	2015:	2016:	2017:	2018:	2019:	2020:	2021:
2012:	2013:	2014:	2015:	2016:							
2017:	2018:	2019:	2020:	2021:							
<p>10a. TO THE BEST OF MY KNOWLEDGE AND BELIEF, ALL DATA IN THIS APPLICATION ARE TRUE AND CORRECT, THE DOCUMENT HAS BEEN DULY AUTHORIZED BY THE GOVERNING BODY OF THE APPLICANT AND THE APPLICANT WILL COMPLY WITH THE ATTACHED REQUIREMENTS AND ASSURANCES IF THE PROPOSAL IS ACCEPTED.</p>											
<p>10b. TYPED OR PRINTED NAME OF AUTHORIZED REPRESENTATIVE: Hugh B. McKeen</p>	<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 70%;">11. TITLE: Chairman Catron County Comm.</td> <td style="width: 30%;">12. PHONE NUMBER: (575) 533-6423</td> </tr> </table>	11. TITLE: Chairman Catron County Comm.	12. PHONE NUMBER: (575) 533-6423								
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<p>13. SIGNATURE: /S. / Hugh B McKeen</p>	<p>DATE: 7/12/2011</p>										

14. Evaluation criteria. Comprehensive responses to criteria A through D should be supported where possible by the best available science and scientific data, studies, models, and, where applicable, cite state, regional, or other water plans. Where such data and information is not available, applications should include best estimates and describe how such information would be obtained. Applications that do not include the requested information will not satisfy Tier-1 standards and, therefore, will not be eligible for Tier-2 consideration. Use Form 14a if needed.

A. State whether the proposal is for the “New Mexico Unit,” a “water utilization alternative,” or both.

It is rather confusing; we would call it a NM Unit and/or a “water utilization alternative” until the proper designation can be established.

B. Describe how the proposal will meet a “water supply demand” in the Southwest New Mexico Water Planning Region, comprised of Catron, Grant, Hidalgo and Luna Counties.

This is a request concerning historic existing water uses located on Gila National Forest land that were inappropriately not adjudicated in the 60’s under the Arizona California decree. The water use is primarily dirt storage ponds and some wells and springs. This water was legally being put to beneficial use before the 60’s decree.

Before any new water is allocated, the older water rights should be properly adjudicated and a wrong made right.

The 60’s decree and adjudication did recognize water rights existing on Bureau of Land Management (BLM) grazing permits and of course livestock leases on New Mexico State land. The Gila Forest did wrongfully claim all water on their forest land and in doing so the legitimate water right holders were eliminated.

Systematically the Gila Forest Personnel have continued to claim these water rights through numerous court cases. The courts have always upheld that the state of New Mexico owns the water and allocates it to whoever puts it to beneficial use. The Gila National Forest personnel have many times openly opposed this project when presented at the stakeholder meetings.

There is further exorbitance of this water rights issue, the Gila Forest demands that any new uses of water on their land must come from an adjudicated source. This means drying up a piece of irrigated land or transferring a well right.

In conclusion the water supply has been met; it needs to be legally adjudicated.

- C. Describe how the proposal considers the Gila environment and describe how any negative impacts might be mitigated.

There is no negative impact; the structures are in place and the water is presently being put to beneficial use. Wildlife and livestock alike are benefiting from these water sources.

- D. Describe how the proposal considers the historic uses of and future demands for water in the Southwest New Mexico Water Planning Region and the traditions, cultures and customs affecting those uses.

Certainly, if these water rights are not made whole having never been adjudicated the historic customs and cultures will be affected and soon eliminated.

Exhibit A. Interstate Stream Commission Gila Policy Statement, September 2004, and 2004 Arizona Water Settlements Act, Section 212 (i)

INTERSTATE STREAM COMMISSION GILA POLICY STATEMENT, SEPTEMBER 2004:

The Interstate Stream Commission recognizes the unique and valuable ecology of the Gila Basin. In considering any proposal for water utilization under Section 212 of the Arizona Water Settlements Act, the Commission will apply the best available science to fully assess and mitigate the ecological impacts on Southwest New Mexico, the Gila River, its tributaries and associated riparian corridors, while also considering the historic uses of and future demands for water in the Basin and the traditions, cultures and customs affecting those uses.

2004 ARIZONA WATER SETTLEMENTS ACT, SECTION 212 (i)

(i) NEW MEXICO UNIT FUND- The Secretary shall deposit the amounts made available under paragraph (2)(D)(i) of section 403(f) of the Colorado River Basin Project Act (43 U.S.C. 1543(f)) (as amended by section 107(a)) into the New Mexico Unit Fund, a State of New Mexico Fund established and administered by the New Mexico Interstate Stream Commission. Withdrawals from the New Mexico Unit Fund shall be for the purpose of paying costs of the New Mexico Unit or other water utilization alternatives to meet water supply demands in the Southwest Water Planning Region of New Mexico, as determined by the New Mexico Interstate Stream Commission in consultation with the Southwest New Mexico Water Study Group or its successor, including costs associated with planning and environmental compliance activities and environmental mitigation and restoration.

FORM 14A

USE THIS FORM TO COMPLETE ANSWERS TO CRITERIA 1 THROUGH 4. NUMBER EACH ADDITIONAL RESPONSE WITH THE CORRESPONDING CRITERIA NUMBER AND SUB-CRITERIA. USE AS MANY PAGES AS NEEDED.

The costs associated with this proposal are very minimal. It would seem appropriate that the New Mexico State Engineers Office would be obligated to provide the necessary measuring and location of these water facilities. This was their obligation during the adjudication in the 60s.